

FILED 10 OCT 27 12:11 USDC-ORN

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

DANIEL LEE HOLTERMAN,

Plaintiff,

Civil No. 10-1114-CL

v.

REPORT AND  
RECOMMENDATION

D. DAVIS, et al.,

Defendants.

CLARKE, Magistrate Judge.

By Order (#5) entered September 20, 2010, plaintiff's complaint was dismissed for failure to state a claim. Plaintiff was allowed 30 days to file an amended complaint curing the deficiencies set forth in the court's order and advised that failure to file an amended complaint within 30 days would result in the dismissal of this action for failure to prosecute.

Plaintiff has not filed an amended complaint or requested an extension of time to do so. Accordingly, this action

should be dismissed for failure to state a claim as set forth in the court's Order (#5) and for failure to prosecute.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 27 day of October, 2010.



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Mark D. Clarke  
United States Magistrate Judge